

-9-

REMARKS

Claims 6, 14, and 22 are rejected under 35 U.S.C. 112, second paragraph. Such rejection is deemed overcome in view of the clarifications made hereinabove to the claims.

Claims 1-3, 5, 7, 9-11, 13, 15, 17-19, 21 and 23 still stand rejected under 35 USC §102 as anticipated by Marsh (U.S. Patent 6,763,462). Applicant respectfully disagrees with such rejection, particularly in view of the amendment made hereinabove.

In response to applicant's earlier amendments and arguments, the Examiner continues to rely on the excerpt from Marsh below to meet applicant's claimed technique where "(ii) said e-mail message contains message content having at least a threshold level of similarity to message content of said previously generated e-mail messages being sent to more than a threshold number of addressees specified within said address book; and (iii) said e-mail message contains message content having at least a threshold level of similarity to message content of more than a threshold number of said previously generated e-mail messages" (see this or similar, but not necessarily identical language in each of the independent claims).

"Referring to FIG. 2, the random numbers may be generated when the email application 102 is launched, as shown in block 200. Each time an electronic message is transmitted, the virus detection utility 104 inspects the outgoing message to identify the message's intended recipients. The virus detection utility 104 may examine e-mail distribution patterns by comparing selected e-mail addresses corresponding to the random numbers with potential recipients of the outgoing e-mail message at block 204. If all of the selected e-mail addresses are listed as recipients of a pending electronic message at diamond 206, possible virus activity may be occurring and a user may be notified as shown in block 208. Otherwise, an outgoing electronic message may be delivered according to normal operations of the e-mail application 102 at block 210. In accordance with another embodiment, potential virus activity may be detected by finding a specified number of the e-mail addresses corresponding to the generated random numbers in the recipient list of an outgoing message. For example, a user may be alerted if three (3) of the five (5) e-mail addresses associated with the random numbers are listed as recipients. In this manner, viruses that attempt to spread to other computers rapidly by sending e-mail may be

-10-

identified by monitoring patterns of e-mail distribution in a user's e-mail account.

A user may be notified of possible virus activity (block 208) through any conventional messaging technique such as a pop-up warning dialog. A virus warning may include information regarding recent e-mail activity such as recipients and message content. The virus warning may also give a user options to respond to possible virus activity including deleting an outgoing message without sending, saving an outgoing message for later examination, or disregarding the warning and sending an outgoing message." (see col. 3, lines 10-42)

The Examiner goes on to argue that "Marsh disclosed comparing outgoing messages for a certain period of time, two minutes, and if the threshold was reached during that time, the message was deleted and not sent..." However, the above arguments and the foregoing excerpt, and the remaining Marsh references for that matter, remains deficient in that neither address nor suggest a technique for identifying an "e-mail message [that] contains message content having at least a threshold level of similarity to message content of said previously generated e-mail messages" nor an "e-mail message [that] contains message content having at least a threshold level of similarity to message content of more than a threshold number of said previously generated e-mail messages" (emphasis added), as claimed. Only applicant teaches and claims the application of such a threshold level of similarity.

It is noted that the system of Marsh would be useless if malware sought to disguise itself by altering the message content of the e-mail messages, since Marsh merely addresses viruses that "replicate" e-mails. Note col. 3, line 46 from Marsh. To this end, simply nowhere in the prior art is there such a specifically claimed technique for providing protection against malware which seeks to disguise itself, using a threshold level of similarity, as specifically claimed.

The Examiner is reminded that a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. Of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Moreover, the identical invention must be shown in as complete detail as contained in the claim. *Richardson v. Suzuki Motor*

-11-

Co.868 F.2d 1226, 1236, 9USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim.

This criteria has simply not been met by the Marsh reference. Nevertheless, despite such paramount deficiencies and in the spirit of expediting the prosecution of the present application, applicant has included the subject matter below in each of the independent claims.

“(ii) said e-mail message contains message content having at least a threshold level of similarity to non-identical message content of said previously generated e-mail messages being sent to more than a threshold number of addressees specified within said address book; and

(iii) said e-mail message contains message content having at least a threshold level of similarity to non-identical message content of more than a threshold number of said previously generated e-mail messages” (emphasis added – note page 4, first paragraph in the summary section of the originally-filed application).

Thus, it is now further emphasized that applicant teaches and claims a threshold level of similarity that is capable of being used to identify instances where an e-mail message contains message content having at least a threshold level of similarity to non-identical message content. This is of particular importance in order to provide protection against malware which seeks to disguise itself.

A notice of allowance or a specific prior art showing of all of applicant's claim limitations, in combination with the remaining claim elements, is respectfully requested.

Thus, all of the independent claims are deemed allowable. Moreover, the remaining dependent claims are further deemed allowable, in view of their dependence on such independent claims.

-12-

In the event a telephone conversation would expedite the prosecution of this application, the Examiner may reach the undersigned at (408) 505-5100. The Commissioner is authorized to charge any additional fees or credit any overpayment to Deposit Account No. 50-1351 (Order No. NAI1P462/01.059.01).

Respectfully submitted,

Zilka-Kotab, PC.

Kevin J. Zilka

Registration No. 41,429

P.O. Box 721120
San Jose, CA 95172-1120
408-505-5100